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Secretary

June 6, 2007

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Suite TW-A325
Washington, DC 20554

Re: Comments of the New York State Department of Public Service in WC
Docket No. 05-337 and CC Docket No. 96-45; High-Cost
Universal Service Support, Federal-State Joint Board on
Universal Service.

Dear Secretary Dortch:

The New York State Department of Public Service (Department or NYDPS) respectfully submits these comments to the Federal Communications Commission (FCC) on its Notice of Proposed Rule Making (NPRM) in the above-captioned proceeding. The NYDPS supports the Federal-State Joint Board on Universal Service (Joint Board) proposal to impose an interim cap on high-cost universal service support provided to competitive eligible telecommunications carriers (CETCs). We also suggest that the Commission impose similar caps on the high-cost support provided to incumbent ETCs, both rural and non-rural.

Observing significant growth in high-cost universal service support in recent years, on May 1, 2007, the Joint Board recommended that the Commission adopt an interim cap on high-cost universal service support provided to CETCs. Specifically, the Joint Board recommended capping the amount of support that CETCs may receive collectively in each state at the average level of CETC support distributed in that state in 2006 and that the cap apply until one year from the date

that the Joint Board makes its recommendation regarding comprehensive and fundamental high-cost universal service reform.¹

As the Joint Board has amply shown, high-cost support has grown dramatically during this decade.² While most of that growth represents increased support to CETCs, primarily wireless carriers, incumbent ETCs also enjoyed significant high-cost support increases.³ The system may simply be unable to sustain these rates of growth while the Joint Board and FCC ponder more permanent universal service reforms. At the very least, those consumers who are net contributors of this support are entitled to assurance that any future increases in high-cost support are actually necessary to achieve the universal service objectives of the federal telecommunications act. Until such reforms are made and such assurances can be given, the NYDPS supports imposition of an interim cap on at least the CETCs portion of the high-cost fund.

Although high-cost support to incumbent ETCs has been basically stable over the past few years, it is still subject to modest increases stemming from both line growth and cost increases. Thus, as a matter of fairness, the NYDPS would suggest that all components of high-cost support (rural, non-rural, and competitive) be subject to firm interim caps. If no growth in incumbents' support would occur in the absence of a cap, its imposition would cause no ETC harm, but if growth would occur absent a cap, it would be inappropriate to allow one set of ETCs to enjoy the benefits of increased support, while denying those same benefits to their competitors.

In sum, the NYDPS supports the proposed interim cap on high-cost support for CETCs and suggests imposing similar caps on all portions of the high-cost fund.

Respectfully submitted,

Peter M. McGowan

¹ WC Docket No. 05-337 and CC Docket No. 96-45, *Recommended Decision of the Federal-State Joint Board on Universal Service*, adopted April 26, 2007, released May 1, 2007, (FCC 07J-1).

² The Joint Board reports that the high cost fund has grown from \$2.6 billion in 2001 to approximately \$4 billion, a 54% increase. *Recommended Decision, para. 4*

³ From 2001 through 2006, competitive ETC support grew from \$15 million to almost \$1 billion, while incumbent ETC support grew by approximately \$.4 billion. *id*

NYDPS Comments
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